

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Benton and Heather Hendrix,
Petitioners-Appellants,

v.

Dallas County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-25-0813
Parcel No. 15-17-200-012

On June 22, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants Benton and Heather Hendrix were self-represented and submitted evidence in support of their petition. The Dallas County Board of Review designated County Attorney Wayne Reisetter as its legal representative. Deputy County Assessor Catherine Creighton represented the Board of Review at hearing and submitted evidence in support of its decision. The Appeal Board now having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Benton and Heather Hendrix, owners of property located at 33291 Old Portland Lane, Adel, Iowa, appeal from the Dallas County Board of Review decision reassessing their property. The real estate was classified residential for the January 1, 2009, assessment and valued at \$397,230; representing \$72,920 in land value and \$324,310 in the improvement value. Hendrixes protested to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). In response to the protest, the Board of Review reduced the assessed value to a total of \$367,000; representing \$72,920 in land value and \$294,080 in land.

Hendrixes then appealed to this Board on the same grounds. Hendrixes seek \$68,500 in relief and value the property at \$298,500.

According to the property record card, the subject property is a one-story, frame dwelling built in 2006 with 1834 square feet of living area. It has an 1834 square feet of basement with 1028 square feet of finish. The subject property has a 1072 square-foot, attached garage, and the site consists of 4.43 acres. It also has rural water and a private septic system. The subject property has a 2+10 quality grade factor.

At hearing, Hendrix testified that he purchased the subject property as a foreclosure property. But, he believed the transaction was reflective of market value, since the Hendrixes were bidding against another party for the property. Hendrix paid \$296,000 for the subject property in March 2009, which was \$6100 above the list price, and also paid \$3443 of property taxes in arrears.

Hendrix submitted an appraisal by Katherine Lane, Lane Appraisal Service, West Des Moines, that was completed in March 2009 for loan purposes. Lane valued the subject property at \$298,500. This board notes although the appraisal date is March 2009, it is very close to the January 1, 2009, assessment date. Hendrix believes that although he purchased the property as a foreclosure property, the appraisal is reflective of market value and believes that the \$298,500 appraisal value should be the assessment even though it is higher than the actual purchase price.

Catherine Creighton, Deputy Dallas County Assessor, testified that since the Hendrix transaction was a foreclosure sale, it should not be considered a normal arm's-length transaction unless an adjustment is made to the sales price. This Board agrees that foreclosures are an abnormal sales condition that would require adjustment according to Iowa Code section 441.21(1)(b).

Creighton pointed out that the Lane appraisal compared a two-story dwelling to the subject ranch-style dwelling. Lane did not testify at hearing to explain if she adjusted for the different styles. However, Lane did make a \$24,990 adjustment for the square-footage difference between the

properties. Additionally, Lane noted “the rural market has many long term owners and custom built homes with land the only recorded sale, this greatly reduces the sales available for comparison.” We are convinced the Lane appraisal made necessary and reasonable adjustments to arrive at the subject property’s fair market value, even though one of her three comparable properties was a two-story dwelling and the subject property is a one-story dwelling.

Creighton also testified regarding two recent sales that she considered to support the assessment. These sales documents were excluded from the record because she did not forward the data to the Hendrixes at least ten prior to hearing as required by Iowa Administrative Code rule 701-71.21(29)(d). Despite Creighton’s testimony, insufficient data exists to determine if the properties, in fact, were comparable. The Board of Review did not have any additional evidence to support the assessment.

Reviewing all the evidence, we find that the appellant has provided evidence to prove the subject property is over-assessed. We find the best evidence of the subject property’s fair market value is the appraisal by Katherine Lane that supports an amount of \$298,500.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment*

Appeal Bd., 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

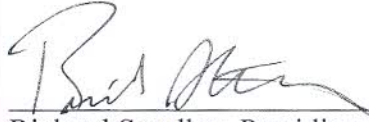
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Hendrixes did establish by a preponderance of the evidence that the current assessed valuation is more than authorized by law. The Lane appraisal, though completed after the assessment date, is still reliable for the January 1, 2009, assessment because two of the comparable sales occurred in 2008 and one just shortly after the assessment date on January 29, 2009.

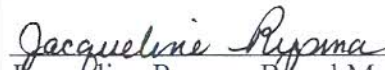
We, therefore, modify the assessment of the Benton and Heather Hendrix property as determined by the Board of Review. The Appeal Board determines that the property assessment as of January 1, 2009, is \$298,500; representing \$72,900 in land value and \$225,580 in dwelling value.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Dallas County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

THE APPEAL BOARD ORDERS that the assessment of the Hendrix property, located at 33291 Old Portland Lane, Adel, Iowa, as of January 1, 2009, set by the Dallas County Board of Review, is modified.

Dated this 19 day of August, 2010.


Richard Stradley, Presiding Office


Jacqueline Rypma, Board Member

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on 8/19, 2010.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other

Signature 